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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA

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11 JERRY RAY CAVINS, No. 2:03-cv-00929-MCE-KJM P
12 Petitioner,

13 vs. ORDER

14 BILL LOCKYER,
15 Respondent.

16 _____ /
17 Petitioner, a state prisoner proceeding pro se, has filed this application for a writ
18 of habeas corpus pursuant to 28 U.S.C. § 2254. The matter was referred to a United States
19 Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local General Order No. 262.

20 On February 12, 2009, the magistrate judge filed findings and recommendations
21 herein which were served on all parties and which contained notice to all parties that any
22 objections to the findings and recommendations were to be filed within twenty days. Both
23 parties have filed objections to the findings and recommendations.

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1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 72-
2 304, this court has conducted a de novo review of this case. Having carefully reviewed the
3 entire file, the court finds the findings and recommendations to be supported by the record and by
4 proper analysis.

5 Accordingly, IT IS HEREBY ORDERED that:

6 1. The findings and recommendations filed February 12, 2009, are adopted in part
7 and rejected in part;

8 2. Respondents' motion to dismiss is decided as follows:

9 A. For the reasons set forth in the Magistrate Judge's Findings &
10 Recommendations, granted with respect to claims 2 and 5 in petitioner's
11 second amended application for writ of habeas corpus; and

12 B. For the reasons set forth in Respondents' Objections To Magistrate
13 Judge's Findings and Recommendations, granted with respect to claim 6
14 in petitioner's second amended application for writ of habeas corpus.

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16 Dated: March 27, 2009



MORRISON C. ENGLAND, JR.
UNITED STATES DISTRICT JUDGE